G. R. S. IX-5]

Previous references.

Preserve

1918-19

(Courts)

File No. 31-18

Serial Nos. 1 to 3

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 & 3

Part B for August 1918

SUBJECT.

Reduction of Stamp fees on Awards for maintenance. (G. A. Subject No. 64 of 1917).

No. 3 From the Registrar, Chief Court. Dy: Court Capital Area No. Q. 4246-7 Dy 28-8-1918. States that Govt. are of opinion that it is not desirable to modify the existing law on the subject.

W D 88—GPB—50,000—24-7-16

31/8/18

G. R. S. 11] 1918.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 31-18

FILE HEADING.

Reduction of stamp fees in suits for maintenance -
(R. A. Subject no. 64 of 1917-18)

From

No.	Dated	Received
Diary No.	Enclos. Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

DIARY NO. G. 1357

19 -19

SUBJECT No. 64.

Reduction of stamp in suits for maintenance.

Mr. C. Chennakesaviah, Chitaldrug taluk.

Summary of discussion.—The stamp fee required to be paid under section 4, clause (ii) of the Civil Procedure Code is heavy. Hence, most such suits are brought in *forma pauperis* and the stamp value is often not recovered. The value of stamp for such suits may be fixed at Rs. 10, as for other declaratory suits or reduced to 30 per cent

Reply of Government:—Will be considered.

SECRETARIAT
III
JUDICIAL
22 JUL 1918

1) Subd. with a draft to the Registrar, Chief court of Mysore

KN. 24/7 25/7

2) Issue 25/7

Issued

1 To The Registrar Chief Court No G 2189 dy 29.7.18 Calls for his opinion in the matter.

2. From the Registrar Chief Court, No. G. 766 dy 9-8-18

Forwards the opinion of the judges of Chief court.

~~Subd. for orders~~

3) The chief judge is not for any alteration in the scale of fees or in the method of valuation.

4) Mr. Justice Chandrasekara aiyar is for fixing the valuation as 3 times the yearly claim instead of ten times as at present.

5) Mr. Justice Paramasiva aiyar is for fixing the valuation at 2 1/2 times the yearly claim

6) Subd. for orders.

G. R. S. III-2

General and Revenue Secretariat.

Us File No. 31 of 1918.

Serial No.

7) The question for consideration is whether the Court fee prescribed for suits for maintenance and annuities or other sums payable periodically requires revision and, if so, to what extent under the existing law, the amount of Court fee has to be computed according to the value of the subject matter, and such value shall be deemed to be 10 times the amount claimed for a year. The suggestion of the mover is that the fee may be fixed at Rs 10/- irrespective of the value claimed by the plaintiff or may be fixed at 30%. The second suggestion is not very clear. The Chief Court were consulted in the matter, and their opinions are now forwarded. The Chief Judge does not consider that any change is necessary, and he objects to "tinkering with the Court Fees Regulation in particular classes of suits, merely in the hope of getting a few hundred rupees a year revenue thereby". Mr Chandra Sekhara Iyer considers that 3 times the annual valuation may be fixed; Mr Paramaswara Iyer considers that 2½ times the annual value may be fixed :-

8) The present law has been in force nearly all over British India for over 50 years, and no change is deemed necessary so far as British India is concerned. A very strong case must be made out for any alteration of a law which has stood the test for nearly a century. As observed by the learned Judge

NOTE—Contn. sheet.

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | CS File No. 31 of 1918.-69

Serial No.

Judge, exorbitant claims will be the result if the existing rates are reduced. The original Act in regard to Court fees were passed with the main object of preventing vexatious litigation, and it was only subsequently the purpose of increasing the public revenue was added. The representation does not put forward the pleas in convenience to the public and it does not appear to be desirable to make any alteration in a portion of the Regulation without completely upsetting the general framework of the Regn. The ~~principal~~ 1st Plaintiff ~~Defendant~~ ~~Plaintiff~~ ~~Defendant~~ ~~Judge~~. The ~~Court~~ Hon'ble Judge recommends reduction in the fees on account of the fact that most of the claimants are poor, but they are not required to pay any fees and may be permitted to sue in forma pauperis, and the recalcitrant defendant will be made to pay it for driving the innocent party to Court. Taking all aspects of the question into consideration, it does not seem desirable to modify the existing law. If approved, draft ~~up~~ will be submitted accordingly.

CS, 14/8

Hon'ble Member

Please look up a draft accordingly

14/8

CS, draft, 17/8

Draft Submitted

CS 17/8.

Please put up fair draft

CS 20/8

19/8

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | CS File No. 31 of 1918-19

Serial No.

Fair draft Submd.

In favour of Kind approval

Dist-Membry

draft approved by the 1st member

23/8/18

Issue

3 The Registrar, Chief Court of Mysore
The Dy. C. Chitaldrug
G. 4246-7 Dt 28-8-18
Thinks that ~~the~~ it is not desirable to modify the existing law on the subject.

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

File No. Courts 31/18

Serial No. 1

Diary No. of letter replied to _____

No. S 2189

General and Revenue Secretariat

To The Registrar, Chief Court of Mysore

Date of issue 29.7.918

Signed by M. E. S. Iyer

Sir,

I am directed to invite your attention to subject No. 64 of the Proceedings of the 2nd Session of the Representative Assembly of 19.1.7.18 and the reply of Government thereto in the matter of the ~~reduction of Stamp fees in suits for maintenance~~

and to request you to be so good as to favour Govt. with the opinion of the Chief Court ~~your opinion~~ in the matter at an early date.

List of enclosures _____

Drafted by _____

Copied by _____

Examined by _____

I have, etc.,

For Chief *Secretary to Govt.*

KN

GPB—500—7-11-11

R.O.C. NO. 166

11678 1918-19

CHIEF COURT OF MYSORE,
Bangalore.

Dated 8th August 1918.

From

N.T. GOPALIENGAR, ESQ., B.A., LL.B.,
Registrar of the Chief Court of Mysore,
Bangalore.

To

C.S. BALASUNDARAM IYER, ESQ., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

SIR,

Adverting to your letter No. G.2189/Cts.31-18-1 dated the 29th July 1918 calling for the opinion of this Court on Subject No.64 of the Proceedings of the Second Session of the Representative Assembly of 1917-18 in the matter of the reduction of stamp fees in suits for maintenance, I am directed to forward the enclosed opinions of the Judges on the subject.

I have the honor to be,
Sir,
Your most obedient servant,

N. Gopaliengar

REGISTRAR.

D.L.

O P I N I O N S.

THE CHIEF JUDGE.-

Court fees form a part of the General Revenues and it is not really a question for the Chief Court whether any reduction is to be effected generally: but on a particular question we may have something to say.

I speak without statistics but my impression is that the decrees in maintenance suits will rarely be 'as prayed'. The plaintiffs' claim in maintenance suits as in suits for damages is usually modified as a result of the trial, at any rate the proportion of cases in which it is decreed in toto by the Court is not greater than in other classes of suits for compensation.

To fix a fee of Rs.10/- would if this is so result in the exaggeration of claims with greater impunity than exists at present.

It is true that in Mysore nearly all the maintenance suits are by plaintiffs who have no means of subsistence or practically none over and above the maintenance claimed; but the provisions for pauper suits seem to meet their case.

The representation is not, it will be noted, made on the ground that plaintiffs suffer, but on the ground that the Government often suffers by being unable to recover the institution fee.

Whether the Government would gain more by reducing the court fee and with it its irrecoverable dues, or by retaining it and taking the risk of bad debts as at present, I should not like to guess. I do not know how much is lost annually owing to the inability of the Government to recover its dues, and the representative does not help us with any figures. But if I were the Government I should hesitate to begin tinkering with the Court Fees Regulation in particular classes of suits, merely in the hope of

getting

getting a few hundred rupees a year more revenue thereby.

The representative suggests two alternatives; if the first be adopted the whole foundation of the Court Fees Regulation, so far as suits are concerned, is shaken: the principle is 'ad valorem' fees when the claim can be valued in money, and if that principle is abandoned in maintenance suits at the instance of a representative, the Government's troubles are likely to begin. The other proposal is to reduce the fee retaining the ad valorem principle.

I do not exactly know what is meant by reducing "to 30 %", but in any case I doubt the advisability of altering the percentage in a particular class of suits. That again is likely to lead to further attacks on the schedule.

I do not think we can advise the Government to make any alteration in the scale of fees or the method of valuation.

MR. JUSTICE CHANDRASEKHARA AIYAR.-

I agree that the ad valorem principle should be adhered to in the case of maintenance suits. But the valuation of such suits at ten times the amount claimed for one year works a real hardship in the majority of cases. To take one instance: a poor widow who claims 5 Rs. maintenance per mensem has to find 45 Rs. as court fee to be paid on her plaint, or apply for permission to sue in forma pauperis, which may or may not be granted. Court fee is intended primarily as a source of revenue to the State and not as a deterrent on the exaggeration of claims, though it may incidentally have that effect also. The particular reason put forward by the representative may not be a cogent one; but I do not think it is good policy to fix the court fee so high that in a very large number of maintenance cases (probably the majority) the plaintiffs have to apply to sue as paupers. The second alternative proposed in the representation means I think that, instead of ten times the yearly claim, 3 times the same amount might be fixed as the

valuation

valuation; and I am inclined to think that this is a reasonable proposal. In the instance which I have taken above, the plaintiff under this proposal would only have to pay Rs.13½ court fee which would be much more within the means of that class of litigants than Rs.45/-.

MR. JUSTICE T.PARAMASIVA IYER.-

In the case of lands other than gardens subjected to a survey settlement 5 times the survey assessment which was held to represent one-half of the net yield is the basis of taxation. Adopting a similar principle court fee in maintenance suits may be levied on the amount claimed for 2½ years or 30 months. Such suits are mostly preferred by helpless widows and injured wives and the concession (if it is such) shown to the claimants of dry and wet assessed lands may well be extended to them.

REGISTRAR.

D.L.

G.R.S. VI-71]

SUBJECT Reduction of Stamp fees in suits for maintenance (R A Subject no 64 of 1917-18)

Diary No. of letter replied to.....

Section Courts
File No. 31-18
Serial No. 3.

General and Revenue Secretariat
( )
, the 191

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 28-8-18

Signed by Asst G. S. Sy.r

Read.-

Subject no. 64 of the proceedings of the 2nd. Session of the R A of 1917-18 representing that the Court fee for suits for maintenance be fixed at Rs 10/- or reduced 30 per cent.

2. Letter R. O. C no 166/18-19 ~~Order Thereon.— No.~~ 8/9th Aug 1918 from the Registrar, Chief Court of Mysore forwarding the opinions of the Judges

over.

May this be

i Printed?

ii treated as a standing order?

iii published in the Gazette English part?

iv translated?

v placed at the disposal of the press?

vi published in the Gazette Kannada part?

of the Chief Court on the
subject.

Order No.

After considering
all aspects of the question,
Govt. are of opinion
that it is not desirable
to modify the existing
law on the subject.

By Order
Chief Secy

To

The Registrar, Chief
Court of Mysore

The Dy. Comm^r Chitaldrug
Dt. for communication
to the member concerned

List of enclosures.

Copy to the R. A. Section

Copied by

Examined by